

Section II (Remarks)

A. Summary of Amendment to the Claims

Claims 1 and 11 have been amended herein.

Claims 1- 12 are pending.

The amendments made herein are fully consistent with and supported by the originally-filed disclosure of this application. The junction of the two panel elements that is specified by the amendment to claims 1 and 11 is shown in Figures 3 and 5 of the present application. In the cross-sectional view shown by Figure 3 and Figure 5, the flat side of the tongue is shown by the upper side (42) and the lower side (43) of the projection that is illustrated as being inserted into the groove in the joined state.

Accordingly, no new matter within the meaning of 35 U.S.C. §132(a) has been introduced by the foregoing amendments.

B. 35 U.S.C. § 102 Claim Rejection

In the November 1, 2007 final Office Action, claims 1-12 were rejected as being anticipated under 35 U.S.C. §102(b) by Ostrovsky (GB2117813; hereinafter “Ostrovsky”). Applicants respectfully traverse such rejection in view of amendments to claims 1 and 11 and the ensuing remarks.

Anticipation of a claim requires the disclosure in a single prior art reference of each element of the claim under consideration. (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. v. Garlock*, 721, F.2d 1540, 220 USPQ 303 at 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). It is not enough that the prior art reference discloses all the claimed elements in isolation. Rather, “anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added).

Ostrovsky does not disclose all elements of the invention claimed in amended claims 1 and 11.

Amended claims 1 and 11 recite a panel element containing both a first longitudinal side having a tongue and a second longitudinal side opposite the first longitudinal side, having a groove, wherein the tongue has a “flat side facing the utilization side and extending in the first direction” that “is inserted into the corresponding groove of the other similar panel element.”

Ostrovsky does not disclose a tongue projection with a “flat side” that is inserted into a “corresponding groove.”

Ostrovsky describes “a pair of panels having co-operating abutment portions...one of said panels having an elongated tongue directly connected thereto and lying along the abutment portion thereof and the other panel having an elongated groove directly thereto and lying along the abutment portion thereof for co-operation of the sides of the groove with the sides of the tongue...**the co-operating sides of the tongue and of the groove being curved about an axis** lying parallel to the tongue...” (Emphasis added.) (Ostrovsky, Specification, pg. 1, ln. 50-64.)

Ostrovsky further describes the curved edges of the tongue and the corresponding curved groove, stating that “[s]ince the **tongue 27 and groove 21 are similarly curved**...the entry of the tongue 27 into the groove 21 follows pivotal movement.”(Emphasis added.) (Ostrovsky, Specification, pg. 3, ln. 3-6.)

As apparent from an examination of Figure 1 and Figure 2 of Ostrovsky, the tongue and corresponding groove in such reference have continuously curved edges with no “flat side” that is inserted into a corresponding “flat side” of the groove. In fact, the curved edges of the tongue and groove in Ostrovsky are necessary for the “pivotal movement” that accompanies the entry of the curved tongue into the curved groove, as described at page 3, line 3 of Ostrovsky. Since the tongue and groove described in Ostrovsky are curved and without a flat side, Ostrovsky does not disclose each and every element of amended claim 1 and amended claim 11.

The present amendment recites the flat side as belonging to the part of the tongue inserted into the corresponding groove, as shown in Figures 3 and 5 (elements 42, 43) of the present application. The applicant delimited the claimed subject matter from Ostrovsky in response to the

first Office Action of April 10, 2007, by adding the limitation of “a flat side of the first projection facing the utilization side and extending in the first direction” to claims 1 and 11. The examiner, however, in the final Office Action of November 1, 2007, has considered this feature disclosed by the upper edge of the “male” projection of Ostrovsky, citing to “figure 2 [of Ostrovsky] the area where part 33 touches the tongue.” (Office Action of November 1, 2007, pg. 2, paragraph 2.)

However, as shown by Figure 1 of Ostrovsky (see feature 32, the un-joined panels of Ostrovsky) and Figure 2 of Ostrovsky (see feature 33, the joined panels of Ostrovsky), the “flat side..where part 33 touches” is not a part of a tongue projection that is “inserted into the corresponding groove of the other similar element.” In fact, in Ostrovsky (see Figure 1), this flat part in conjunction with the first “female” projection (24) forms a “groove defined by the surfaces 15, 16, and a surface extending therebetween indicated at 32.” (Ostrovsky, pg. 3, ln. 19-26.) This additional groove is for the locking strip (33), a feature that is not necessary in applicants’ invention. Ostrovsky therefore provides no derivative basis for applicants’ claimed invention.

Accordingly, since Ostrovsky fails to disclose a tongue projection with a “flat side” that is inserted into the “corresponding groove,” Ostrovsky cannot anticipate the present application of amended claims 1 and 11, and dependent claims 2-10 and 12 thereunder. Withdrawal of the rejection of claims 1-12 under 35 U.S.C. § 102 (b) is correspondingly requested.

The examiner has also contended that Ostrovsky “shows an interlocking **floor system** as set forth in claim 11.” (November 1, 2007 Office Action, pg. 4, ln. 4.) (Emphasis added.) Applicants respectfully disagree.

Claim 11 of the present invention recites an interlocking floor system in which the floor has a load-bearing capacity for walking over it or for placing furniture on it. The specification of the present application contains numerous references to the load-bearing capacity of the specific design of the floor system of claim 11. (See present Application, pg.1, paragraphs 1-2, ln. 1-16; page 2, paragraph 3, ln. 13-17; page 3, paragraph 2, ln. 7-11; page 7, paragraph 1, ln. 5-7 ; and page 8, second full paragraph, ln. 14-26.)

Ostrovsky, in contrast, discloses a “joint assembly” for “foam insulation material” “for forming the walls of a cold storage area.” (Ostrovsky, pg.1, ln. 14-23.) Ostrovsky further discloses that

wall to wall corners are “the most common examples” in which the described joints are used, especially in situations “comprising the edge to edge abutting relationship whereby the panels form a wall.” (Ostrovsky, pg. 1, ln. 99-103.) Ostrovsky does not teach or indicate that such sheets of foam insulation material could bear loads necessary for walking or supporting furniture. Ostrovsky contains no description of the use of such insulation strips as a floor system. Ostrovsky therefore fails to disclose an interlocking floor system recited in applicants’ claim 11 and accordingly cannot anticipate the claimed invention. Withdrawal of the rejection of claim 11 as anticipated by Ostrovsky is correspondingly requested.

CONCLUSION

Based on the foregoing, applicants’ pending claims 1-12 are patentably distinguished over the art, and in form and condition for allowance. The examiner is requested to responsively issue a Notice of Allowance.

Respectfully submitted,

/steven j. hultquist/

Steven J. Hultquist
Reg. No. 28,021
Attorney for Applicants

**INTELLECTUAL PROPERTY/
TECHNOLOGY LAW**
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4121-175

<p>The USPTO is hereby authorized to charge any deficiency or credit any overpayment of fees properly payable for this document to Deposit Account No. 08-3284</p>
